



**MINUTES  
FEBRUARY 28, 2017  
5:30 P.M.**

**STEPHENS COUNTY BOARD OF COMMISSIONERS  
HISTORICAL COURTHOUSE COURTROOM**

**PRESENT FOR MEETING:** Commissioners Debbie Whitlock, Dean Scarborough, Stanley London, Dennis Bell and Michelle Ivester; County Clerk Beth Rider; County Administrator Phyllis Ayers; County Attorney Brian Ranck

Chairman Whitlock welcomed everyone and stated no matter what side you are on we are all from Stephens County. Chairman Whitlock stated she only wants what is best for this county, and in the end we will all still be residents of Stephens County and neighbors and hope we can remember that regardless.

**1<sup>st</sup> READING OF NEW ALCOHOL LICENSE FOR  
DUTCH BAIT**

Attorney Brian Ranck opened the public hearing for anyone wishing to speak in favor of the new alcohol license. Ms. Korver stated they wanted to introduce themselves. They are Dutch Bait located on Jenkins Ferry. Everyone calls him Dutch because he is from the Netherlands. No one else spoke in favor. Mr. Ranck opened the floor for anyone in opposition, no one spoke in opposition. Mr. Ranck closed the public hearing.

**REGULAR MEETING**

Chairman Whitlock called the regular meeting to order at 6:30 p.m. and welcomed those present. Mr. Denman McFarlin gave the invocation and led the Pledge of Allegiance.

**I. APPROVE AGENDA**

A motion was made by Commissioner Ivester, seconded by Commissioner London to approve agenda as presented. **Motion carried unanimously.**

**II. APPROVE MINUTES**

**1. FEBRUARY 14, 2017– REGULAR MEETING & PUBLIC HEARING**

A motion was made by Commissioner London, seconded by Commissioner Scarborough to approve minutes as presented. **Motion carried unanimously.**

**III. OLD BUSINESS**

County Administrator Phyllis Ayers stated we have had public hearings that were advertised before the Planning Commission for these three items; we had public hearings before the Board of Commissioners

at our last meeting, we have had a small community meeting. Tonight, this evening is not a public hearing; it will be the work session discussion and the motion in the regular meeting.

1. REZONING REQUEST FROM WILLIAM HUTTO, 140 FREEMAN CREEK ROAD, TOCCOA, GEORGIA 30577. PARCEL 033 092. THE SUBJECT PROPERTY IS CURRENTLY ZONED AS AGRICULTURAL GENERAL/RESIDENTIAL DISTRICT. PROPOSED ACTION TO BE TAKEN IS TO REZONE AS AGRICULTURE INTENSIVE TO HAVE A POULTRY FARM OPERATION

Ms. Ayers stated in your agenda packet is the rezoning report from the Stephens County Planning Commission. The analysis is this property is 107.84 acres and was a functional property for intensive agriculture in the past. The property around this property is in a mixed use area of intensive agriculture, residential agriculture and residential. At the time of the origination of the zoning map, had this property been in conservation use it would have been zoned Agriculture Intensive. The land use proposal is in conformity with the policy and intent of our adopted plan. The recommendation from the Planning Commission is to approve.

Commissioner Bell stated after looking into this and he has looked into it an awful lot; there is AI on several places around it. Commissioner Bell stated he would make a motion at this time to make that Agriculture Intensive that location for Mr. Hutto. Commissioner Ivester seconded the motion. **Motion carried unanimously 4-1; Commissioner Scarborough opposed.**

2. CONDITIONAL USE REQUEST FROM WILLIAM HUTTO, 140 FREEMAN CREEK ROAD, TOCCOA, GEORGIA 30577. PARCEL 033 092. THE SUBJECT PROPERTY IS CURRENTLY ZONED AS AGRICULTURAL GENERAL/RESIDENTIAL DISTRICT. PROPOSED ACTION TO BE TAKEN IS TO GRANT A CONDITIONAL USE PERMIT FOR POULTRY OPERATIONS

Ms. Ayers stated a conditional use request is requested if the rezoning request is approved under Agriculture Intensive livestock and poultry operation provided they meet all district minimum requirements is requested for a conditional use permit.

Commissioner Bell stated again after a lot of thought process on this thing and we looked at things and talking to both sides and he could see both sides; but this is not easy; this is not an easy job up here at all. Commissioner Bell stated you cannot satisfy everybody, if you try you are doing it for the wrong reason. Commissioner Bell stated he would make a motion to approve the conditional use permit to allow eight poultry houses with a planted buffer of trees and anything beyond eight poultry houses will require an additional conditional use permit. Commissioner Ivester seconded the motion. **Motion carried unanimously 3-2; Commissioners Scarborough and London opposed.**

3. VARIANCE REQUEST FROM WILLIAM HUTTO, 140 FREEMAN CREEK ROAD, TOCCOA, GEORGIA 30577. PARCEL 033 092. THE SUBJECT PROPERTY IS CURRENTLY ZONED AS AGRICULTURAL GENERAL/RESIDENTIAL DISTRICT. PROPOSED ACTION TO BE TAKEN IS TO GRANT APPROXIMATELY 130' VARIANCE FOR THE FIRST FORMER CHICKEN HOUSE CLOSEST TO PARCEL NUMBER 033 078 AND APPROXIMATELY 58' VARIANCE FOR THE SECOND FORMER CHICKEN HOUSE CLOSEST TO PARCEL NUMBER 033 078

Ms. Ayers stated this particular variance request has changed a few times; concessions have been made and this was the exact reading from your last agenda.

Chairman Whitlock stated she knew there were a lot of people here that want to be heard. As Phyllis Ayers stated we have had the Planning Commission where both sides were heard; we have had two

public hearings where both sides were heard and there has been a private meeting. Chairman Whitlock stated herself and at least two other commissioners have met with people on both sides of this issue. Chairman Whitlock stated she had spoken with the County Farm Agent, someone from UGA, Mr. Hutto, Von Westmoreland, Janice English, and Harlan Martin who has a degree in Poultry Management. Chairman Whitlock stated on the rezoning from AG to AI it is her belief and her findings after looking into this, that this property should have always been AI. We are talking about 107 acres of open space farm land that is bordered by other AI property and had it not been for a mistake it would have been AI property. There are poultry operations there that had been in operation for years prior to Mr. Hutto buying this property. Chairman Whitlock stated also in her finding that it is going to be a severe hardship and bankrupt Mr. Hutto if the zoning, conditional use and variances are not granted; it is going to bankrupt him and cause severe hardship for him, his wife and his three children. Mr. Hutto when he bought the property there were four older poultry houses, not being from here would have had no reason to believe he wouldn't be able to operate those poultry houses. Chairman Whitlock stated under conditional use, she also believes and finds in her opinion it meets the criteria for a conditional use; again there is plenty of open space; we are talking about 107 acres of farm land that has a history of poultry operations. There is no offsite parking, no significant signage, Mr. Hutto agreed to buffer his property with trees; this again is going to create an undue hardship if the conditional use is not granted. Chairman Whitlock stated number ten under the conditional use states it is the goal and when we created this Land Use Plan the reason for the conditional uses and under number ten was to protect and preserve agriculture in Stephens County. Our farmers are an important and integral part of our community and always have been. There has been no evidence presented that the neighbors will suffer an adverse affect given statements from UGA, the County Farm Extension Agent and Harlan Martin who is also a neighbor and owns a large tract of property that is AI property and has a degree in Poultry Management. Chairman Whitlock stated not all neighbors and she has spoken to plenty of people as well as the rest of the commissioners have reviewed all the petitions; not all neighbors are against Mr. Hutto operating his poultry houses there. There were many that were for it and supported him in this. Ms. Ayers contacted the Health Department and spoke with our County Marshal, they went back through records and there has never been a report when the poultry operations were operating that they could find where they ever had a report of a problem or nuisance in the past; if there were problems they did not find any reports of that. Chairman Whitlock stated there has also been no showing that property values will be negatively affected. There were also concerns that Mr. Hutto didn't know anything about running no poultry house. So, we wanted to talk to his past employer to find out whether he had ever really worked on a poultry farm and if in fact he had, what was his experience and what kind of job did he do. This is a letter dated February 24, 2017 from KDMC Farms, 255 Walter Norman Road, Hartsfield, GA 31756; his phone number is 229-941-5128. Chairman Whitlock read the letter:

To Whom It May Concern,

This letter is to confirm the employment of William Heath Hutto. He began working for Ken Coleman Farms, which is now KDMC Farms, in August of 2005. We hired him as the Broiler Farm Manager and he and his family lived on this farm while he worked here. When he started, it was a 4 house farm but 4 more broiler houses were built within a few months to make this an 8 house farm. We were contracted to grow for Sanderson at the time.

Heath Hutto was an excellent manager that was consistent at placing in the top rankings. He also did a great job at keeping the farm clean and well managed. He stayed on top of the regulations and always made sure that the farm conformed to all the guidelines by the integrator and the government. He left the farm in January 2011 when he moved to Florida. We hired him for a few months that Spring/Summer to train our new farm manager.

In January of 2016, our farm manager left so we hired Heath Hutto again to help manage the farm until we could get another manager. He worked for us until the end of October of 2016. We currently

grow for Keystone. Again, Heath Hutto placed in the very top of the rankings for these 3 ½ flocks. He helped to train our new manager that we hired in October.

We were very blessed to have Heath Hutto here at this farm for the time that he was here. He grew for us for almost 7 years total. He helped us out tremendously on several occasions. He is hard working and dedicated to doing his best. We wish him all the best with his own farm. We are confident that he will do very well at managing his own farm. If you have any questions or concerns, please feel free to give us a call.

Chairman Whitlock stated she thinks this an assurance that the operations, Mr. Hutto's poultry operation will not negatively affect this community or his neighbors. Chairman Whitlock stated she knew many of you are disappointed, we are a five member board; that is her decision that she feels is the right decision.

Commissioner Ivester stated she has given this a lot of thought the past two weeks, lost a lot of sleep over this. Given the importance of the issue and because she is not representing any direct party, she decided she will take a vote tonight. Commissioner Ivester stated she thinks it is her obligation as a Commissioner and she was voted in by the citizens and owes it to the citizens to vote on this topic.

Chairman Whitlock asked if the numbers needed to change . Ms. Ayers stated no, that is currently right now; that would be the variance. The first one is 170 feet from the next property line; the second one is 242 feet from the property line, requiring 300 from the property line of 033 078.

Commissioner Bell asked these are talking about the two houses on very top. Ms. Ayers stated the two at the very top.

Commissioner Bell made a motion to approve the variance request to allow the two existing chicken houses on top closest to parcel 033 092 to remain in the present location. Commissioner Ivester seconded the motion. Ms. Ayers stated we will make one small correction, that will be closest to parcel 033 078; those two are beside each other so that should be a correction in the motion. Commissioner Bell stated 078. Ms. Ayers stated yes, 078.

Chairman Whitlock stated this is difficult and wish she didn't have to make this decision. She stated as she looked out, there are people she loves and cares about and she calls friends; this is very difficult and she has to make the decision she feels is right after looking at everything that has been brought before her and presented to her. Commissioner Ivester she agreed and would add to that the reason she is voting the way she is because she sat on the Land Use Committee who made this ordinance and she has reviewed them and reviewed them over the past few weeks and feels this is in line with our ordinance. Commissioner London stated he had all intentions of agreeing to a smaller number of houses, but he can't bring himself to a total of eight; he would have agreed for a smaller number. Commissioner Scarborough stated he was also opposed to the eight. **Motion was carried unanimously 3-2; Commissioners Scarborough and London opposed.**

4. BOARD TO CONSIDER MOTION TO GRANT A VARIANCE TO MR. ROBERT ROBBINS FOR PROPERTY LOCATED ON RED ROCK ROAD

Ms. Ayers stated at the last meeting we had a letter from the Stephens County Health Department and Mr. Robbins was not present. Mr. Robbins is here tonight to ask for a variance.

Mr. Robbins stated he lives at 145 N. Red Rock Road, Toccoa, GA 30577. Mr. Robbins stated he purchased the property on September 9, 2016 believing that the property was fully equipped to live on. Mr. Robbins stated after he took possession of the property he found out the septic tank had not been located. Since then he has put in a small septic than what is required by Stephens County. Shad and Tom have both been out there a couple of times; Shad stated there was no awareness of seepage to make it a

faulty septic tank it is just not the size required by Stephens County. Mr. Robbins stated there is a septic tank on the property and Tom and Shad think it may be in a location under a building he has placed on his property and he will have to move it. As the board knows he has exasperated all his cash money and his income is \$753.00 a month. Mr. Robbins stated he has a hard time getting any major funds built up; he has credit but they will not extend it because he has no way to pay it back. Mr. Robbins stated he is doing the best he can do with what he has got, he stated his hands are tied until he finds the old septic tank or a wind fall comes and something falls out of the sky. He stated he was at the board's mercy. Chairman Whitlock asked Tom Bennett if he had gone out to inspect it and what he found when he went out there. Mr. Bennett stated when he went out with the Health Department, there is a temporary system installed at this time that is holding; there is no seepage on the ground or below it. We have no idea where the original tank was and believe it is under a building he has there. Chairman Whitlock asked what he has done, is it sufficient. Mr. Bennett stated he could not answer that, that would be the Health Department; all he could say is there is no leakage. Chairman Whitlock asked if he had talked to the Health Department about it. Mr. Bennett stated "yes", he said it is temporary and something has to be made permanent. Commissioner Scarborough stated, this letter states the system that is in now is an illegal system but is not seeping; and if he read the letter correctly they are allowing this permit for one year. Mr. Bennett stated any permit for a septic tank is good for one year. Commissioner Scarborough asked, as long as this is not seeping or causing a problem has he got a full year from the time this letter was written to find the other one and repair it? Mr. Bennett stated he has that time to install a new one or repair; if there is any seepage we would have to cut the water off right then. Commissioner Scarborough stated we could without the appearance of seepage allow the variance to be in place temporarily as long as this letter allows him to operate. Mr. Bennett stated yes, and he could go out monthly and do an inspection to make sure there is no seepage. Attorney Brian Ranck stated you could condition the variance on him staying in compliance and meeting any Health Department requirements and if for some reason he gets a fowl at the Health Department your variance would be conditioned on that; that would cover what you are trying to do. Mr. Bennett stated yes, if he went out and saw any seepage he would have to have the Health Department come out. Commissioner London stated he had gone by Mr. Robbins property and it looks great, Mr. Robbins has made great improvements. Mr. Robbins stated he was doing the best he can. Commissioner London stated you could never tell you had hardships; you make a lot out of nothing. Mr. Robbins stated he has sown grass seed and made it look a little more presentable and trying to keep it clean. Commissioner London stated it is a neat little area you have, much better than the previous. Mr. Robbins stated he likes it there a lot better than where he was. Commissioner London stated he had gotten some emails and felt certain some of the other commissioners had gotten them to where some of the residents had read about his situation in the paper and gave a good opinion of you as a neighbor and for us to keep that in mind. You have some good friends out there. Commissioner Scarborough asked who could help him find his septic tank. Mr. Bennett stated a certified installer; they would have to use a probing rod. Commissioner Ivester stated there is a cost for doing that, don't they usually charge \$300-\$400. Chairman Whitlock stated you could move that building and the septic tank may not be under there. Mr. Robbins stated it may not be under there and it will cost money to move the building; it is loaded down with stuff he could not fit in his house. Mr. Bennett stated there is no guarantee the septic tank is under that building, the lines from the old trailer home came out and went that way but they could have turned. Commissioner Scarborough stated there is not a lot of places on that property that could accept a drain line; it has to be on that flat area. Mr. Bennett stated the original owner told him it was down below in the field, it was not there, the original owner did not know where it was. Commissioner Scarborough stated his main concern was the creek down below. Mr. Bennett stated the Health Department used to keep records, a lot of times they were misplaced. We did go and check they do not have a record it was installed prior to them keeping records. Mr. Robbins stated he does have a proper clean out in the septic tank he has and if he sees

anything that is not proper he will have it cleaned out; as you know everything costs money. Commissioner Scarborough stated we will try to work with you.

A motion was made by Commissioner London, seconded by Commissioner Bell to grant the variance to Mr. Robbins with the stipulations that Tom go out periodically for the septic tank to make sure the septic system is in order monthly until his permit expires December 31, 2017. **Motion carried unanimously.**

Commissioner London asked Tom if he would be able to check Mr. Robbins septic system once a month until he gets the permanent system in. Mr. Bennett stated yes.

Commissioner Scarborough stated he just needs clarification, was that for the one year that the Health Department has okayed him for the existing permit that he is after. Mr. Bennett stated that year has been running approximately a month now. They inspected it today. Commissioner Scarborough stated so this is not a permanent fix for the Health Department. Mr. Bennett stated no, he has to put in a regular system and the new system has to be installed before his permit runs out.

Mr. Bennett stated he would go out each month and give the Commissioners a report on what he finds.

#### **IV. NEW BUSINESS**

1. DANNY YEARWOOD TO ADDRESS BOARD ON DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES (DBHDD)

Mr. Yearwood gave an update to the board; he passed out a survey for the board to fill out and return that would give them information as to what type of Mental Health and Developmental Disabilities services are needed in the county. Mr. Yearwood stated he would be getting the surveys out to the community and the hospitals. **No motion needed.**

2. MOTION FOR BOARD TO CONSIDER APRIL 22, 2017 AS AMNESTY DAY AND REQUEST THAT ALL HOUSEHOLD GARBAGE BE PLACED IN BAGS AND APPROVE THE ROAD CREWS A RATE OF DOUBLE TIME FOR THE OVERTIME PAY ON THIS DAY

A motion was made by Commissioner Ivester, seconded by Commissioner London to approve. **Motion carried unanimously.**

3. BOARD TO CONSIDER MOTION TO AUTHORIZE CHAIRMAN TO SIGN CONTRACT RENEWAL #1 WITH PARKER TRAFFIC MARKINGS, INC. FOR CALENDAR YEAR 2017

Ms. Ayers stated last year we bid out striping, with option for one renewal option for this year. We are looking at three groups of options. We have met with C. W. Matthews and the asphalt plant will be turned out at the end of March, beginning of April. This is not awarding a dollar figure, this is just based on we have finished a road you have approved and it is ready to be striped.

A motion was made by Commissioner Scarborough, seconded by Commissioner Ivester to authorize Chairman to sign contract renewal. **Motion carried unanimously.**

4. BOARD TO CONSIDER MOTION TO AUTHORIZE CHAIRMAN TO SIGN ALL NECESSARY DOCUMENTS FOR THE HAZARD MITIGATION ASSISTANCE MATCHING GRANT IN THE AMOUNT OF \$24,000.00 WITH A FEDERAL SHARE OF \$18,000.00 AND A LOCAL SHARE OF \$6,000.00

When Chief Jamey Gettys was filling in in the interim for EMA Director, he was notified by GEMA/FEMA there was some early grant money. Ours is not due to expire until 2019, but there was excess grant money if we apply early which we did. This would approve that GMRC does our grant writing and this secures that for us a little early.

A motion was made by Commissioner Ivester, seconded by Commissioner Scarborough to authorize Chairman to sign all necessary documents for the Hazard Mitigation Assistance matching grant. **Motion carried unanimously.**

5. BOARD TO CONSIDER MOTION FROM LAKE HARBOR SHORES RESIDENTS REQUESTING THE COUNTY TO ADD THREE ROADS TOMAHAWK TRAIL, APACHE TRAIL AND NAVAHOE TRAIL INTO THE COUNTY ROAD MAINTENANCE SYSTEM IN ORDER FOR THEM TO HAVE CITY WATER

Mr. Maule a representative for Lake Harbor Shores stated Stephens County has three roads within Lake Harbor Shores that have not been maintained in years except one spot where it goes across the creek. What we are trying to do is get the county to take over these three roads that would let 18 residents to get on city water; most are on well water which has been in service since 1972. Wells are failing; they are paying almost double what the city would be charging for their water. Tomahawk Trail is one of the best roads in the complex, we have assessed no work needs to be done on Tomahawk. On Navaho Trail if they would come and scrape the road would bring it back to width, it is really overgrown. Apache Trail has a tiny pothole and on the corner the mailman is having a hard time getting up it is down to one lane; we are thinking about three tons of GAB a crusher run they use on freeways. We are asking the county to take over these roads; Mr. Maule stated he provided a map and the blue area on the map is what we are asking for. On Navaho Trail we are only asking up to the top of the hill; going down the hill used to be paved and the road is now gone there are no houses there. Chairman Whitlock asked Ms. Ayers if she could get a cost on what it would be to add those to our maintenance system. Ms. Ayers stated yes, she had not sent the road crew out there but will do that.

A motion was made by Commissioner Scarborough, seconded by Commissioner Ivester to deny the request. **Motion carried unanimously.**

Commissioner London stated he would like for us to get the study and review it at a later time.

6. BOARD TO CONSIDER MOTION TO APPROVE FY 2017 BUDGET AMENDMENT FOR PROBATE COURT, SHERIFF, JAIL, E911, AND TAX COMMISSIONER AND AUTHORIZE CHAIRMAN TO SIGN RESOLUTION

A motion was made by Commissioner Bell, seconded by Commissioner London to approve FY 2017 budget amendments and authorize Chairman to sign resolution. **Motion carried unanimously.**

#### **I. INVOICES OVER \$5,000**

1. HANSON AGGREGATES - \$5,606.46

A motion was made by Commissioner London, seconded by Commissioner Scarborough to pay the invoice. **Motion carried unanimously.**

## II. MATTERS FROM DEPARTMENTS

### 1. ADMINISTRATOR/FINANCE REPORT

Ms. Ayers stated she had given the Commissioners a copy of the formal financial report and had scanned and emailed it to them earlier; we are doing very well to the budget.

### 2. DEPARTMENT REPORT

### 3. COMMISSIONERS REPORT

Commissioner Bell thanked the Volunteer Fire Services, they had a fire going up toward Habersham County and they did an excellent job.

Commissioner Scarborough stated one of the pictures the gentleman gave to us on Holcomb Road does show a dangerous pothole we need to get fixed.

## III. MATTERS FROM CITIZENS – TIME LIMIT OF THREE (3) MINUTES

## IV. EXECUTIVE SESSION – PERSONNEL

A motion was made by Commissioner Ivester, seconded by Commissioner Scarborough to enter into executive session at 6:47 p.m.

A motion was made by Commissioner Ivester, seconded by Commissioner Bell to reconvene regular meeting at 7:04 p.m.

## V. ADJOURNMENT

A motion was made by Commissioner Ivester, seconded by Commissioner Bell to adjourn regular meeting at 7:04 p.m. **Motion carried unanimously.**

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Debbie Whitlock, Chairman

Attest:

\_\_\_\_\_  
Beth Rider, County Clerk